

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORKUSDC SDNY
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20230930-DK-BUTTERFLY-1, INC.,

Plaintiff,

-against-

HBC INVESTMENTS LLC and HUDSON BAY
CAPITAL MANAGEMENT LP,

Defendants.

1:24-cv-03370-MKV

ORDER

MARY KAY VYSKOCIL, United States District Judge:

Defendants filed their motion to dismiss on July 11, 2024. [ECF No. 24]. Amici appeared and moved to file an *amicus curiae* brief on August 30, 2024. [ECF No. 30]. Plaintiff filed an opposition to the motion to dismiss on September 6, 2024. [ECF No. 37]. Plaintiff filed an opposition to the motion to file an *amicus curiae* brief on September 13, 2024. [ECF No. 41]. Defendants filed a reply in support of the motion to dismiss on October 2, 2024. [ECF No. 44]. The Court granted amici leave to file an *amicus curiae* brief on October 7, 2024, and such a brief was filed the same day. [ECF Nos. 46-48].

Subsequently, Plaintiff filed a letter moving for leave to file a brief of up to 10 pages in response to *amicus curiae* brief and the declaration of *amicus curiae*'s counsel. [ECF No. 49]. Defendants subsequently filed a letter asserting that Plaintiff's motion should be denied, and if granted, Defendants should also be granted leave to file a response to Plaintiff's brief. [ECF No. 50]. Defendants argue that Plaintiff had ample opportunity to respond to the *amicus curiae* brief, including in its opposition to the motion to dismiss and its opposition to amici's motion for leave to file that Brief. [ECF No. 50].

Plaintiff could not have responded to the *amicus curiae* brief before it was filed, which was after briefing of the motion to dismiss was completed.

Accordingly, Plaintiff is GRANTED leave to respond to the *amicus curiae* brief. The response shall be no longer than 10 pages. The brief shall be filed no later than January 17, 2025. Defendants' motion to respond to Plaintiff's brief, in support of the *amicus curiae* brief that supports its own position is DENIED.

The clerk of Court is respectfully requested to terminate the motion pending at docket entry 49.

SO ORDERED.

Date: December 19, 2024
New York, NY

Mary Kay Vyskocil
MARY KAY VYSKOCIL
United States District Judge